

REMARKS

This invention relates to *inter alia*, organofunctionally modified polysiloxanes containing phenyl groups as dispersants and wetting agents in aqueous pigment pastes and/or ink and paint formulations.

It is believed that no fee is required for the consideration of this document. However, if a fee is due, the Director is authorized to charge such fee, or credit any overpayment, to Deposit Account 50-0320.

In response to the Restriction Requirement, Applicants elect, with traverse, the invention of Group I, claims 1-4 and 14 drawn to a method of dispensing at least one pigment by adding at least one organofunctional modified polysiloxane of formula (I). Applicants respectfully urge that the Restriction Requirement does not establish that searching all the inventions would constitute an undue burden to the Patent Office and that the Restriction Requirement is contrary to public policy. Accordingly, Applicants submit that the Restriction Requirement is improper and should be withdrawn or at least modified.

The MPEP lists two criteria for a proper restriction requirement. First, the invention must be independent or distinct. MPEP§803. Second, searching the additional invention must constitute an undue burden on the examiner if restriction is not required. *Id.* The MPEP directs the examiner to search and examine an entire application “[i]f the search and examination of an entire application can be made without serious burden, ... even though it includes claims to distinct or independent inventions.” *Id.*

Applicants urge that the Restriction Requirement does not meet the second of these criteria as the search for all of the Groups overlap. All the Groups involved search of an organofunctionally modified polysiloxane that falls under formula (I). Hence, the search of the

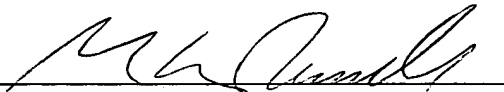
invention of Group I overlap the search for the invention of Groups I and II as one would search compounds that are included by formula (I).

Further, it is respectfully urged that restricting the claims in the manner suggested in the Restriction Requirement constitutes an undue burden to Applicants as well as to the public. The cost of prosecuting and maintaining so many patents is unreasonable in view of the fact that the three Groups are so closely related. Further, the public is inconvenienced as they will not know whether or not Applicants will file a divisional application to the remaining subject matter. Accordingly, the public will not know if they can practice the remaining invention without infringing future patent applications.

Accordingly, in view of the foregoing, reconsideration and modification of this restriction requirement is requested and an early action on the merits is earnestly solicited.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP
Attorneys for Applicants

By: 
Mark W. Russell
Registration No. 37,514
(212) 588-0800